

**MENDOTA INSURANCE COMPANY
1295 Northland Drive
Mendota Heights, MN 55120**

NAIC COMPANY CODE 33650

**MARKET CONDUCT EXAMINATION REPORT
as of December 31, 2002**

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

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Prepared by

Wayne C. Stephens, CIE

Kathleen M. Bergan, AIE

Independent Contract Examiners

October 9, 2003

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Dean:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, and claims practices of Mendota Insurance Company's private passenger automobile business, has been conducted. The Company's records were examined at its home office located at 1295 Northland Drive, Mendota Heights, MN 55120.

The examination covered a one-year period from January 1, 2002 to December 31, 2002.

A report of the examination of Mendota Insurance Company is, herewith, respectfully submitted.

Wayne C. Stephens, CIE

Kathleen M. Bergan, AIE

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**MARKET CONDUCT
EXAMINATION REPORT
OF THE
MENDOTA INSURANCE COMPANY**

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COMPANY PROFILE

Mendota Insurance Company (herein after referred to as “the Company”) was incorporated under the laws of Minnesota on May 1, 1989 and commenced business on June 1, 1989. The Company was established to write personal lines insurance products and is currently licensed in forty one (41) states and the District of Columbia.

All outstanding shares of the Company are owned by Jupiter Holdings, Inc, which is a wholly owned subsidiary of The Northland Company, a Minnesota domiciled corporation. In 1998 Jupiter Holdings Inc. was acquired by the Associates Corporation of North America and was held until October 2000. On November 20, of 2000 the Associates, along with its affiliated insurance companies (including the Company) were purchased by Citigroup which is the parent of the current owner Travelers Property and Casualty Corporation.

The Company is a participant in an Inter Company Pooling Agreement between its immediate affiliates including: Mendakota Insurance Company, Northland Insurance Company, Northfield Insurance Company, American Equity Insurance Company and American Equity Specialty Insurance Company, as well as other affiliated companies in the Travelers Property and Casualty Company system.

The Company was issued a Certificate of authority in Colorado on November 30, 1994, and has been writing Nonstandard Auto business through independent agents in Colorado since 1995.

*As of calendar year 2002, the Company had reported premium in Colorado of \$18,657,000 for Private Passenger Automobile, representing a .65% market share in Colorado.

*Data as reported in the Colorado Insurance Industry Statistical report.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law §10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to Private Passenger Automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2002 to December 31, 2002.

File sampling was based on a review of underwriting and claims files that were randomly selected by using Audit Command Language (ACL) software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Complaint Handling
3. Underwriting
4. Rating
5. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's Private Passenger Automobile underwriting and claims practices to determine compliance with the Colorado insurance law as outlined in Exhibit 1.

Exhibit 1

Law	Subject
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-706.	Required coverage - complying policies - PIP examination program.
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Intercompany arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.

Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course - legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Insurance Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.
Regulation 6-2-2.	Responses to Division Inquiries Regarding Complaints.

Company Operations/Management

The examiners reviewed Company management, implementation of quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

Complaints

The examiners reviewed and compared the complaint log maintained by the Division of Insurance against the Company's complaint log to verify the accuracy of the Company's tracking system. The examiners also evaluated the Company's complaint handling methodology and reviewed the reason for and disposition of complaints.

Producers

The examiners reviewed new business applications written in the State of Colorado for the period under examination and compared those documents against the list of producers provided by the Company. The Company uses Independent Agents licensed to write business through the Company.

Contract Forms and Endorsements

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance on July 5, 2002:

Title	Form Number
Personal Auto Policy	M0100 (10/97)
Personal Auto Declarations	N-1034D (9/89)
Amendment of Policy provisions	M0482 (8/01)
Personal Injury Protection Endorsement	M0106 (1/02)
PPO Endorsement	M0107 (1/99)
Colorado PIP Options/Receipt of Acknowledgement	M0108 (3/02)
Summary Disclosure Form	M0109 (10/97)
Named Non-Owner Coverage Endorsement	PP 03 22 12 89
Additional Interest Endorsement-CO	M0110 (10/97)
Uninsured Motorists Property Damage Coverage	PP 04 37 04 99
Uninsured Motorists Coverage-Colorado	PP 04 25 07 02
Loss Payee Deductible Endorsement	M0102 (10/97)
Renewal Notice	N-1034D (9/89)
Cancellation/Nonrenewal Notice	GU 9694e (3/92)
Notice of Reduction in Coverage/Increase in Premium	GU 9695d (3/92)
Named Driver Exclusion	M0123 (11/97)
SR-22	R1302a (10/91)
SR-26	R1307 (10/91)
Insurance Identification Card	M0651 (12/01)
Personal Auto Application	M1207 CO
Reimbursement of Rental Car Expense	M0104 (10/97)
Mexican Collision Coverage	M0298 (1/99)
Coverage for Damage to Your Auto Exclusion	PP 13 01 12 99

New Business /Cancellations/Nonrenewals/Surcharges/Rejections/Renewals

For the period under examination, the examiners randomly selected the following underwriting samples to determine compliance with underwriting practices:

Underwriting Lists	Population	Sample Size	Percentage to Population
New Business	27,321	100	.37%
Nonrenewals	80	50	63%
Cancel all Causes	12	12	100%
Cancel non-pay	13,352	100	.75%
Surcharges	219	50	23%
Cancel 1 st 59 days	10,431	100	.96%
Rejections	0	0	0%*
Renewal	2,879	50	1.7%

* Company agents have binding authority, therefore the Company reports no rejection of new business.

Rating

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of new business and renewal policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, discounts, and final premium calculations.

Claims

For the period under examination, the examiners randomly selected the following samples to determine compliance of claims handling practices:

Claim Lists	Population	Sample Size	Percentage to Population
Claims Paid	1,289	100	8%
Claims Denied	628	100	16%
PIP paid claims	35	35	100%

EXAMINATION REPORT SUMMARY

The examination resulted in four (4) issues arising from the Company's apparent failure to comply with Colorado insurance law that govern all property and casualty insurers operating in Colorado. These issues involved the following categories:

Company Operations and Management:

In the area of company operations and management, no compliance issues are addressed in this report.

Complaint Handling:

In the area of complaint handling, no compliance issues are addressed in this report.

Underwriting:

In the area of underwriting, one (1) compliance issue is addressed in this report. This issue arises from Colorado insurance law requirements that must be complied with whenever policies are issued, canceled, rejected, non-renewed, or surcharged. The issue in this phase is identified as follows:

- Failure, in some cases, to offer a named driver exclusion.

It is recommended that the Company review its underwriting practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as it relates to each issue.

Rating:

In the area of Rating, no compliance issues are addressed in this report.

Claim Practices:

In the area of claim practices, three (3) compliance issues are addressed in this report. Issues arise from Colorado insurance law requirements dealing with the fair and equitable settlement of claims, claims handling practices, payment of PIP claim benefits, and the timeliness and accuracy of claim payments. The issues in this phase are identified as follows:

- Delay, in some cases, in the payment of PIP benefits. (This was Issue I in the previous 1997 Market Conduct Examination Report and is therefore considered a repeat violation.)
- Failure, in some cases, to acknowledge and act reasonably promptly upon communications arising under insurance policies.
- Failure to have a statement of coverage on claim settlement checks.

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

MENDOTA INSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

PERTINENT FACTUAL FINDINGS

UNDERWRITING

Issue A: Failure, in some cases, to offer a named driver exclusion.

Section 10-4-721, C.R.S., Exclusion of named driver, states, in part:

(1) In any case where an insurer is authorized under this part 7 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the cancellation or nonrenewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.

In the review of cancellations after the first 59 days, it was noted that the Company did not offer a named driver exclusion in eight (8) instances.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Cancellations after the first 59 days of inception

Population	Sample Size	Number of Exceptions	Percentage to Sample
12	12	8	67%

An examination of twelve (12) policies cancelled, representing 100% of those policies cancelled after the first 59 days of inception by the Company during the examination period, showed eight (8) exceptions (or 67% of the sample) wherein the Company failed to offer a named driver exclusion as required by the Colorado insurance law.

Recommendation #1:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-721, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has implemented necessary changes in order to ensure compliance with Colorado insurance law.

PERTINENT FACTUAL FINDINGS

CLAIMS

Issue B: Delay, in some cases, in the payment of PIP benefits. (This was Issue I in the previous 1997 Examination Report.)

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

Section 10-4-708 C.R.S., Prompt payment of direct benefits, provides, in part:

(1) Payment of benefits under the coverages enumerated in section 10-4-706(1)(b) to (1)(e) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation.

Additionally, Amended Regulation 5-2-8 [Amended and effective September 1, 2000], Timely Payment of Personal Injury Protection Benefits, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to §§ 10-1-109, 10-4-704, 10-4-708(1.3), and 10-3-1110(1), C.R.S.

Section 3. Rule

B. Prompt Payment of PIP Benefits

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in § 10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto PIP Claims Paid

Population	Sample Size	Number of Exceptions	Percentage to Sample
35	35	13	37%

An examination of thirty-five (35) PIP claim files, representing 100% of all PIP claim files paid by the Company during the examination period, showed thirteen (13) exceptions (37% of the sample) wherein the Company failed to pay at least one PIP medical bill in each file within the statutory standard as required by Colorado insurance law. This appears to be a repeat violation of PIP claim handling and was Issue I in the previous 1997 Examination Report.

Recommendation #2:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-3-1104 and 10-4-708, C.R.S. and Colorado Amended Regulation 5-2-8. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

In the previous Market Conduct examination as of June 30, 1997, the Company was cited for delay in the payment of PIP benefits. The violation resulted in Recommendation 9, that the Company correct its procedures which would ensure the timely payments of PIP benefits and comply with Colorado insurance law. Failure to comply with the previous recommendation and order of the commissioner may constitute a violation of Section 10-1-205, C.R.S.

Issue C: Failure, in some cases, to acknowledge and act reasonably promptly upon communications arising under insurance policies.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

The following illustrates the significance of error versus the population and sample examined:

Private Passenger Auto Losses Paid (other than PIP)

Population	Sample Size	Number of Exceptions	Percentage to Sample
1,289	100	11	11%

An examination of one hundred (100) claim files, representing 8% of all comprehensive, collision and total loss claim files paid by the Company during the examination period, showed eleven (11) exceptions (11% of the sample) wherein the Company failed to properly and promptly investigate information received related to filed claims. Included in these delays of investigation were not assigning appraisers or timely review of appraisals as related to inspections of damaged vehicles (in some cases for two weeks or longer), no contact with the insured or claimant after the claim was reported, and some claimants going through their own carrier due to lack of response by the Company.

The following shows the category and number of errors as related to this issue: These include delays over thirty (30) days or no contact by the Company whatsoever.

Category/Description	Number of Exceptions
Delay in requesting an appraiser.	3
Delay or Lack of Investigation of claim	6
Subrogation with claimant carrier due to lack of contact.	2
TOTAL	11

Recommendation #3:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed the claim handling procedures and implemented necessary changes in order to ensure compliance with Colorado insurance law.

Issue D: Failure to show a statement of coverage on claim settlement payments.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices states, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(x) Making claims payments to insured or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

In the review of claim settlement checks, the Company did not provide an explanation on any check describing coverage for which the payment is being made. In discussions with Company personnel, it was indicated the description or field was not on settlement checks

Recommendation # 4:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its internal and field procedure for claim drafts and implemented necessary changes in order to ensure compliance with Colorado insurance law.

Summary of Recommendations

<u>ISSUE</u>	<u>RECOMMENDATION NUMBER</u>	<u>PAGE NUMBER</u>
Underwriting		
Issue A: Failure, in some cases, to offer a named driver exclusion.	1	17
Claims		
Issue B. Delay, in some cases, in the payment of PIP benefits. (This was Issue I in the previous 1997 Market Conduct Examination Report.)	2	20
Issue C. Failure, in some cases, to acknowledge and act reasonably promptly upon communications arising under insurance policies.	3	22
Issue D. Failure to show a statement of coverage on claim settlement payments.	4	23

Independent Market Conduct Examiners

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Participated in this examination and in the preparation of this report